

Introduced by Senator Alpert

January 28, 2003

An act to amend Sections 17551, 17558.5, 17561, 17561.6, 17562, 17564, 17568, and 17600 of, and to repeal Section 17555 of, the Government Code, relating to state mandates, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 93, as introduced, Alpert. State mandates.

(1) Existing law requires the Commission on State Mandates to hear and decide upon a claim by a local agency or school district that the local agency is entitled to be reimbursed by the state for costs mandated by the state as required under the California Constitution. Existing law requires that test claims be filed by a local agency or school district not later than 3 years following the date the mandate became effective or, in the case of mandates that became effective before January 1, 2002, the time limit shall be September 30, 2003.

This bill would set those time periods from the date the statute or executive order became effective rather than the date the mandate became effective.

(2) Existing law requires the commission, within 10 days after receipt of a test claim based upon a statute or executive order, to set a date for a public hearing on the claim within 75 days. After the hearing the commission shall determine if there are costs mandated by the state.

This bill would repeal that requirement.

(3) Existing law makes a reimbursement claim subject to an audit by the Controller no later than 3 years after the claim is filed or last amended. The Controller is required to notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment

to the claim resulting from an audit or review. The notice is required to contain specified information. Existing law specifies the rate and procedure by which the Controller may charge interest on overpaid claims.

This bill would delete from the notification interest charges on reduced claims, would require the Controller to charge local agencies and school districts for accrued interest charges that are in excess of \$50 on overpayments, and would revise the procedure for imposing interest on overpayments.

(4) Existing law requires that all initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty.

This bill would delete that requirement.

(5) Existing law requires that a Budget Act item or appropriation relating to reimbursement of claims include the amount necessary to reimburse any interest due on claims paid.

This bill would also require that any accrued interest charged on overpayments shall be credited against the Budget Act item or appropriation.

(6) Existing law requires that, if a local agency or school district submits an otherwise valid claim after the specified deadline, the Controller shall reduce the reimbursement claim amount by 10% but that the reduction may not exceed \$1,000.

This bill would delete that \$1,000 limit on the reduction for a reimbursement claim that is submitted late.

(7) Existing law requires the commission at least twice each calendar year to report to the Legislature the number of mandates it has found, the costs of the mandates, and the reasons for recommending reimbursement.

This bill would require the commission, until January 1, 2005, in those reports to indicate whether the legislation found to impose a mandate was identified by the Legislative Counsel and to compare the mandate's statewide cost estimate with legislative fiscal committee estimates.

(8) The bill would declare it is to take effective immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 17551 of the Government Code is amended to read:

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) ~~Commission review of claims may be had~~ *The commission may exercise its authority* pursuant to subdivision (a) only if the test claim is filed within the time limits specified in this section.

(c) Local agency and school district test claims shall be filed not later than three years following the date the ~~mandate statutes or executive orders~~ became effective, or in the case of ~~mandates statutes or executive orders~~ that became effective before January 1, 2002, the time limit shall be one year from the effective date of this subdivision.

(d) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

SEC. 2. Section 17555 of the Government Code is repealed.

~~17555. (a) The commission, within 10 days after receipt of a test claim based upon a statute or executive order, shall set a date for a public hearing on the claim within 75 days. The test claim may be based upon estimated costs that a local agency or school district may incur as a result of the statute or executive order and may be filed at any time after the statute is enacted or the executive order is adopted. The claim shall be submitted in a form prescribed by the commission. After a hearing in which the claimant and any other interested organization or individual may participate, the commission shall determine if there are costs mandated by the state.~~

~~(b) This section shall become operative on July 1, 1996.~~

SEC. 3. Section 17558.5 of the Government Code is amended to read:

1 17558.5. (a) A reimbursement claim for actual costs filed by
2 a local agency or school district pursuant to this chapter is subject
3 to the initiation of an audit by the Controller no later than three
4 years after the date that the actual reimbursement claim is filed or
5 last amended, whichever is later. However, if no funds are
6 appropriated or no payment is made to a claimant for the program
7 for the fiscal year for which the claim is filed, the time for the
8 Controller to initiate an audit shall commence to run from the date
9 of initial payment of the claim.

10 (b) The Controller shall notify the claimant in writing within 30
11 days after issuance of a remittance advice of any adjustment to a
12 claim for reimbursement that results from an audit or review. The
13 notification shall specify the claim components adjusted, the
14 amounts adjusted, ~~interest charges on claims adjusted to reduce the~~
15 ~~overall reimbursement to the local agency or school district, and~~
16 the reason for the adjustment. Remittance advices and other
17 notices of payment action shall not constitute notice of adjustment
18 from an audit or review.

19 ~~(c) The interest rate charged by the Controller on reduced~~
20 ~~claims shall be set at the Pooled Money Investment Account rate~~
21 ~~and shall be imposed on the dollar amount of the overpaid claim~~
22 ~~from the time the claim was paid until overpayment is satisfied.~~
23 *The Controller shall charge local agencies and school districts for*
24 *accrued interest charges that are in excess of fifty dollars (\$50) on*
25 *overpayments. For purposes of this section, an overpayment*
26 *means a payment from the state to a local agency or school district*
27 *in excess of the amount owed on a reimbursement claim, and*
28 *includes, but is not limited to, payments made to local agencies or*
29 *school districts pursuant to Sections 17561, 17561.5, 17564,*
30 *17567, and 17568.*

31 *The interest rate charged by the Controller on overpayments*
32 *shall be set at the Pooled Money Investment Account Rate. The*
33 *Pooled Money Investment Account Rate shall be imposed on the*
34 *dollar amount of the overpayment from the date the warrant was*
35 *issued that created the overpayment to the date the overpayment*
36 *is satisfied. Within 60 days after an overpayment is satisfied, the*
37 *Controller shall provide written notification to a local agency or*
38 *school district for the total accrued interest charges dues the state*
39 *for interest charges in excess of fifty dollars (\$50). Accrued interest*
40 *charges on overpayments shall be due to the Controller 60 days*

1 *from date of notification. This subdivision shall apply to all*
2 *payments made to local agencies and school districts for claims*
3 *filed pursuant to claiming instructions issued after September 30,*
4 *2002.*

5 (d) Nothing in this section shall be construed to limit the
6 adjustment of payments when inaccuracies are determined to be
7 the result of the intent to defraud, or when a delay in the completion
8 of an audit is the result of willful acts by the claimant or inability
9 to reach agreement on terms of final settlement.

10 SEC. 4. Section 17561 of the Government Code is amended
11 to read:

12 17561. (a) The state shall reimburse each local agency and
13 school district for all “costs mandated by the state,” as defined in
14 Section 17514.

15 (b) (1) For the initial fiscal year during which these costs are
16 incurred, reimbursement funds shall be provided as follows:

17 (A) Any statute mandating these costs shall provide an
18 appropriation therefor.

19 (B) Any executive order mandating these costs shall be
20 accompanied by a bill appropriating the funds therefor, or
21 alternatively, an appropriation for these costs shall be included in
22 the Budget Bill for the next succeeding fiscal year. The executive
23 order shall cite that item of appropriation in the Budget Bill or that
24 appropriation in any other bill which is intended to serve as the
25 source from which the Controller may pay the claims of local
26 agencies and school districts.

27 (2) In subsequent fiscal years appropriations for these costs
28 shall be included in the annual Governor’s Budget and in the
29 accompanying Budget Bill. In addition, appropriations to
30 reimburse local agencies and school districts for continuing costs
31 resulting from chaptered bills or executive orders for which claims
32 have been awarded pursuant to subdivision (a) of Section 17551
33 shall be included in the annual Governor’s Budget and in the
34 accompanying Budget Bill subsequent to the enactment of the
35 local government claims bill pursuant to Section 17600 that
36 includes the amounts awarded relating to these chaptered bills or
37 executive orders.

38 (c) The amount appropriated to reimburse local agencies and
39 school districts for costs mandated by the state shall be
40 appropriated to the Controller for disbursement.



1 (d) The Controller shall pay any eligible claim pursuant to this
2 section within 60 days after the filing deadline for claims for
3 reimbursement or 15 days after the date the appropriation for the
4 claim is effective, whichever is later. The Controller shall disburse
5 reimbursement funds to local agencies or school districts if the
6 costs of these mandates are not payable to state agencies, or to state
7 agencies that would otherwise collect the costs of these mandates
8 from local agencies or school districts in the form of fees,
9 premiums, or payments. When disbursing reimbursement funds to
10 local agencies or school districts, the Controller shall disburse
11 them as follows:

12 (1) For initial reimbursement claims, the Controller shall issue
13 claiming instructions to the relevant local agencies pursuant to
14 Section 17558. Issuance of the claiming instructions shall
15 constitute a notice of the right of the local agencies and school
16 districts to file reimbursement claims, based upon parameters and
17 guidelines adopted by the commission.

18 (A) When claiming instructions are issued by the Controller
19 pursuant to Section 17558 for each mandate determined pursuant
20 to Section 17555 that requires state reimbursement, each local
21 agency or school district to which the mandate is applicable shall
22 submit claims for initial fiscal year costs to the Controller within
23 120 days of the issuance date for the claiming instructions.

24 (B) When the commission is requested to review the claiming
25 instructions pursuant to Section 17571, each local agency or
26 school district to which the mandate is applicable shall submit a
27 claim for reimbursement within 120 days after the commission
28 reviews the claiming instructions for reimbursement issued by the
29 Controller.

30 (C) If the local agency or school district does not submit a claim
31 for reimbursement within the 120-day period, or submits a claim
32 pursuant to revised claiming instructions, it may submit its claim
33 for reimbursement as specified in Section 17560. The Controller
34 shall pay these claims from the funds appropriated therefor,
35 provided that the Controller (i) may audit the records of any local
36 agency or school district to verify the actual amount of the
37 mandated costs, and (ii) may reduce any claim that the Controller
38 determines is excessive or unreasonable.

39 (2) In subsequent fiscal years each local agency or school
40 district shall submit its claims as specified in Section 17560. The



1 Controller shall pay these claims from funds appropriated therefor,
2 provided that the Controller (A) may audit the records of any local
3 agency or school district to verify the actual amount of the
4 mandated costs, (B) may reduce any claim that the Controller
5 determines is excessive or unreasonable, and (C) shall adjust the
6 payment to correct for any underpayments or overpayments which
7 occurred in previous fiscal years.

8 (3) When paying a timely filed claim for initial reimbursement,
9 the Controller shall withhold 20 percent of the amount of the claim
10 until the claim is audited to verify the actual amount of the
11 mandated costs. ~~All initial reimbursement claims for all fiscal~~
12 ~~years required to be filed on their initial filing date for a~~
13 ~~state-mandated local program shall be considered as one claim for~~
14 ~~the purpose of computing any late claim penalty.~~ Any claim for
15 initial reimbursement filed after the filing deadline *pursuant to*
16 *claiming instructions issued after September 30, 2002*, shall be
17 reduced by 10 percent of the amount that would have been allowed
18 had the claim been timely filed. The Controller may withhold
19 payment of any late claim for initial reimbursement until the next
20 deadline for funded claims unless sufficient funds are available to
21 pay the claim after all timely filed claims have been paid. In no case
22 shall a reimbursement claim be paid if submitted more than one
23 year after the filing deadline specified in the Controller's claiming
24 instructions on funded mandates contained in a claims bill.

25 SEC. 5. Section 17561.6 of the Government Code is amended
26 to read:

27 17561.6. (a) A ~~budget act~~ *Budget Act* item or appropriation
28 pursuant to this part for reimbursement of claims shall include an
29 amount necessary to reimburse any interest due pursuant to
30 Section 17561.5.

31 ~~(b) This section shall become operative on July 1, 1996 Any~~
32 ~~accrued interest charged on overpayments pursuant to Section~~
33 ~~17558.5 shall be credited against the Budget Act item or~~
34 ~~appropriation pursuant to this part.~~

35 SEC. 6. Section 17562 of the Government Code is amended
36 to read:

37 17562. (a) The Legislature hereby finds and declares that the
38 increasing revenue constraints on state and local government and
39 the increasing costs of financing state-mandated local programs
40 make evaluation of state-mandated local programs imperative.

1 Accordingly, it is the intent of the Legislature to increase
2 information regarding state mandates and establish a method for
3 regularly reviewing the costs and benefits of state-mandated local
4 programs.

5 (b) The Controller shall submit a report to the Joint Legislative
6 Budget Committee and fiscal committees by January 1 of each
7 year. This report shall summarize, by state mandate, the total
8 amount of claims paid per fiscal year and the amount, if any, of
9 mandate deficiencies or surpluses. This report shall be made
10 available in an electronic spreadsheet format. The report shall
11 compare the annual cost of each mandate to the statewide cost
12 estimate adopted by the commission.

13 (c) After the commission submits its second semiannual report
14 to the Legislature pursuant to Section 17600, the Legislative
15 Analyst shall submit a report to the Joint Legislative Budget
16 Committee and legislative fiscal committees on the mandates
17 included in the commission's reports. The report shall make
18 recommendations as to whether the mandate should be repealed,
19 funded, suspended, or modified.

20 (d) In its annual analysis of the Budget Bill and based on
21 information provided pursuant to subdivision (b), the Legislative
22 Analyst shall identify mandates that significantly exceed the
23 statewide cost estimate adopted by the commission. The
24 Legislative Analyst shall make recommendations on whether the
25 mandate should be repealed, funded, suspended, or modified.

26 (e) (1) A statewide association of local agencies or a Member
27 of the Legislature may submit a proposal to the Legislature
28 recommending the elimination or modification of a
29 state-mandated local program. To make such a proposal, the
30 association or member shall submit a letter to the Chairs of the
31 Assembly Committee on Local Government and the Senate
32 Committee on Local Government specifying the mandate and the
33 concerns and recommendations regarding the mandate. The
34 association or member shall include in the proposal all information
35 relevant to the conclusions. If the chairs of the committees desire
36 additional analysis of the submitted proposal, the chairs may refer
37 the proposal to the Legislative Analyst for review and comment.
38 The chairs of the committees may refer up to a total of 10 of these
39 proposals to the Legislative Analyst for review in any year.



1 Referrals shall be submitted to the Legislative Analyst by
2 December 1 of each year.

3 (2) The Legislative Analyst shall review and report to the
4 Legislature with regard to each proposal that is referred to the
5 office pursuant to paragraph (1). The Legislative Analyst shall
6 recommend that the Legislature adopt, reject, or modify the
7 proposal. The report and recommendations shall be submitted
8 annually to the Legislature by March 1 of the year subsequent to
9 the year in which referrals are submitted to the Legislative
10 Analyst.

11 (3) The Department of Finance shall review all statutes enacted
12 each year that contain provisions making inoperative Section 2229
13 or Section 2230 of the Revenue and Taxation Code or Section
14 17561 or Section 17565 that have resulted in costs or revenue
15 losses mandated by the state that were not identified when the
16 statute was enacted. The review shall identify the costs or revenue
17 losses involved in complying with the statutes. The Department of
18 Finance shall also review all statutes enacted each year that may
19 result in cost savings authorized by the state. The Department of
20 Finance shall submit an annual report of the review required by
21 this subdivision, together with the recommendations as it may
22 deem appropriate, by December 1 of each year.

23 (f) It is the intent of the Legislature that the Assembly
24 Committee on Local Government and the Senate Committee on
25 Local Government hold a joint hearing each year regarding the
26 following:

27 (1) The reports and recommendations submitted pursuant to
28 subdivision (e).

29 (2) The reports submitted pursuant to Sections 17570, 17600,
30 and 17601.

31 (3) Legislation to continue, eliminate, or modify any provision
32 of law reviewed pursuant to this subdivision. The legislation may
33 be by subject area or by year or years of enactment.

34 (g) *(1) The commission, in its reports on new mandates*
35 *submitted to the Legislature pursuant to Section 17600 shall do*
36 *both of the following:*

37 *(A) Indicate whether the legislation it found that imposed a*
38 *mandate was so identified by the Legislative Counsel.*

39 *(B) Compare the mandates statewide cost estimate with*
40 *legislative fiscal committee estimates.*

1 (2) *This subdivision shall become inoperative on January 1,*
2 *2005.*

3 SEC. 7. Section 17564 of the Government Code is amended
4 to read:

5 17564. (a) No claim shall be made pursuant to Sections
6 17551 and 17561 *and pursuant to claiming instructions issued*
7 *after September 30, 2002*, nor shall any payment be made on
8 claims submitted pursuant to Sections 17551 and 17561 *and*
9 *pursuant to claiming instructions issued after September 30, 2002*,
10 unless these claims exceed one thousand dollars (\$1,000),
11 provided that a county superintendent of schools or county may
12 submit a combined claim on behalf of school districts, direct
13 service districts, or special districts within their county if the
14 combined claim exceeds one thousand dollars (\$1,000) even if the
15 individual school district's, direct service district's, or special
16 district's claims do not each exceed one thousand dollars (\$1,000).
17 The county superintendent of schools or the county shall
18 determine if the submission of the combined claim is economically
19 feasible and shall be responsible for disbursing the funds to each
20 school, direct service, or special district. These combined claims
21 may be filed only when the county superintendent of schools or the
22 county is the fiscal agent for the districts. All subsequent claims
23 based upon the same mandate shall only be filed in the combined
24 form unless a school district, direct service district, or special
25 district provides to the county superintendent of schools or county
26 and to the Controller, at least 180 days prior to the deadline for
27 filing the claim, a written notice of its intent to file a separate claim.

28 (b) Claims for direct and indirect costs filed pursuant to Section
29 17561 shall be filed in the manner prescribed in the parameters and
30 guidelines.

31 SEC. 8. Section 17568 of the Government Code is amended
32 to read:

33 17568. If a local agency or school district submits an
34 otherwise valid reimbursement claim *pursuant to claiming*
35 *instructions issued after September 30, 2002*, to the Controller
36 after the deadline specified in Section 17560, the Controller shall
37 reduce the reimbursement claim in an amount equal to 10 percent
38 of the amount which would have been allowed had the
39 reimbursement claim been timely filed, ~~provided that the amount~~
40 ~~of this reduction shall not exceed one thousand dollars (\$1,000).~~

1 In no case shall a reimbursement claim be paid which is submitted
2 more than one year after the deadline specified in Section 17560.
3 Estimated claims which were filed by the deadline specified in that
4 section shall be paid in full before payments are made on estimated
5 claims filed after the deadline. In the event the amount
6 appropriated to the Controller for reimbursement purposes is not
7 sufficient to pay the estimated claims approved by the Controller,
8 the Controller shall prorate those claims in proportion to the dollar
9 amount of approved claims filed after the deadline and shall report
10 to the commission or the Legislature in the same manner as
11 described in Section 17566 in order to assure appropriation of
12 funds sufficient to pay those claims.

13 SEC. 9. Section 17600 of the Government Code is amended
14 to read:

15 17600. (a) At least twice each calendar year the commission
16 shall report to the Legislature on the number of mandates it has
17 found pursuant to Article 1 (commencing with Section 17550) and
18 the estimated statewide costs of these mandates. This report shall
19 identify the statewide costs estimated for each mandate and the
20 reasons for recommending reimbursement.

21 (b) *The commission shall also include in these reports the*
22 *information required pursuant to subdivision (g) of Section 17562.*
23 *This subdivision shall become inoperative on January 1, 2005.*

24 SEC. 10. This act is an urgency statute necessary for the
25 immediate preservation of the Constitution and shall go into
26 immediate effect. The facts constituting the necessity are:

27 In order to ensure the efficient reimbursement of
28 state-mandated local programs it is necessary that this act go into
29 immediate effect.

